

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – SEPTEMBER 7, 2005**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:01 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, and Mayor/Chairman Kennedy
Late: Council/Agency Members Sellers and Tate (both arrived at 6:04 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

Interim City Attorney Siegel announced the below listed Closed Session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: Berkman v. City of Morgan Hill et al.
Case Number: Santa Clara County Superior Court, 1-04-CV-031021

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:06 p.m.

CLOSED SESSION ANNOUNCEMENT

Interim City Attorney/Agency Counsel Siegel announced that no reportable action was taken in closed session.

SILENT INVOCATION

Mayor/Chairman Kennedy addressed the terrible tragedy that occurred in the Gulf Coast with Hurricane Katrina, the terrible aftermath, and the intense suffering/tragedies that occurred. He stated that there has been a tremendous outpouring of offers to help. He indicated that Police Lieutenant Joe Sampson is attending a meeting in San Jose, requested by Mayor Gonzales, to coordinate relief efforts throughout Santa Clara County. He indicated that there are agencies that individuals can contact to help: the American Red Cross, Salvation Army and the Santa Clara County Volunteer Center of Silicon Valley.

Mayor/Chairman Kennedy offered the City's condolences to families who have suffered devastating losses and thanked the first responders/disaster workers who have gone through extreme measures to help the victims.

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, John Foggiano, President of the Morgan Hill Sister Cities Committee, led the Pledge of Allegiance.

PROCLAMATIONS

Mayor Kennedy proclaimed the month of October 2005 as *National Breast Cancer Awareness Month* and October 21, 2005 as *National Mammography Day*.

Mayor Kennedy proclaimed the month of September 2005 as *Prostate Cancer Awareness Month*.

RECOGNITIONS

Program Manager Eulo addressed the importance of receiving outstanding cooperation from local businesses with all environmental programs as well as going above and beyond the legal minimums. He indicated that two businesses will be recognized this evening that have done an outstanding job and have been declared Green Businesses by Santa Clara County.

Gretchen Hefner, Santa Clara County, addressed the Green Business Program. She stated that this program certifies businesses that go above and beyond compliance and take measures to reduce the amount of energy and water used; reducing the amount of waste sent to landfills and preventing pollution. She stated that the two businesses to be recognized these evening have taken these measures and are in compliance with regulations that apply to them, and that they have shown exemplary ability to

go above and beyond what they need to do to demonstrate their care for the community and the environment.

Council Member Grzan presented Certificates of Recognition to Jeanette Thatcher, St. Catherine's Church; and Kevin O'Day and Greg van Wassenhove, Agriculture and Resource Management, South County Office, for receiving the Green Business Recognition Awards for their excellent contribution to the Green operation of their businesses.

PRESENTATION

David Cohen, Leadership Morgan Hill, informed the City Council that he was in attendance on behalf of the 23 members of the Leadership Morgan Hill Class of 2005. He presented a power point presentation of the class project: refurbishment of downtown recycling containers.

CITY COUNCIL REPORT

Council Member Sellers stated that based on the continuing stories that are taking place in the south, it has given everyone thought to give consideration to our own situation and what might be the community's vulnerability. He said that several stories talked about the vulnerability of the region and the resources that were expended, particularly in New Orleans, in terms of levies, time, money and energy that went into the relief efforts. He noted that the City has a similar situation and is similarly vulnerable as we are located in earthquake country. He noted that 16 years ago, with the last major earthquake, the City experienced key building/property damage in the downtown. He indicated that the City has another natural risk as we reside in an area prone to flooding. He said that the City of Morgan Hill has been waiting for the Army Corp of Engineers and others to step up and help with the flooding problem. He indicated that the City has set aside money, over the years, as has the Santa Clara County Water District. He said that the City has been discouraged, the past few years, because the federal government has decided to expend funds elsewhere and take the funds that might have been otherwise spent to help Morgan Hill. He felt it important not to let this opportunity pass the City by and that the City makes the policy leaders at the federal level aware that Morgan Hill is concerned about its own vulnerabilities. He said that many of the City's poorest citizens are forced to pay hundreds of dollars in flood insurance and many others do without flood insurance, continuing to be vulnerable to hundred year floods and floods that might occur. He felt the community needs to be made aware that there are policy decisions that need to be made. He felt that this should be a higher priority than it has been given in recent years. The City needs to implore federal officials to step up and do their part, finding the resources to expedite flood improvements throughout the core of the downtown area so that the most vulnerable of our citizens are made less vulnerable.

CITY MANAGER REPORT

City Manager Tewes reported on how the City of Morgan Hill's family of employees has been impacted by the hurricane and what, as a group of employees; we will be doing to respond. He said that one of the City's valued employees, Frank Toledo, has immediate family located in the Mississippi Gulf coast area and have been displaced by the hurricane. He informed the Council that Mr. Toledo is in

Mississippi trying to assist his family. As employees, we are going to find ways to assist Mr. Toledo so that the time he is taking off comes from the City. He informed the Council that an all hands meeting of City employees was held this morning. It was agreed, by consensus, to try and aggregate all individual contributions to charities; contributing to the relief efforts on behalf of Morgan Hill City employees over the next week. It is his hope to report to the Council, on September 21, how much employees have raised for the relief efforts and to give recognition to City employees, as a group.

CITY ATTORNEY REPORT

Interim City Attorney Siegel stated that he did not have a report to present this evening.

OTHER REPORTS

Mayor Pro Tempore Tate said that a while ago, the Council appointed a committee to plan for a celebration of the City's 100 years of incorporation in 2006. He stated that this committee, in turn, appointed a subcommittee to work toward a gift that citizens can give back to the community in celebration of the City's centennial. He indicated that he and Roger Knopf have been involved in overseeing this subcommittee. He reported that the subcommittee has identified a project it would like to pursue. He said that the centerpiece of the project will be a history trail that will include stations where you stop and read inscriptions and/or see a picture or a bust of a famous figure from the City's past. He could not be specific on the content because the subcommittee would like the entire community to be involved in defining what will be incorporated in the history trail. He indicated that the subcommittee is soliciting community input in terms of what it feels to be an important historical event that needs to be captured, who is felt to be an important historical figure, and/or what type of agriculture recognition should be included (e.g., symbolism of orchards). He stated that the history trail will be central to several other elements of the project. However, it is felt that the other elements can be better defined when the content of the history trail is identified. He said that the history trail will be located at the Morgan Hill House located on Monterey Road, north of town. He requested more involvement from the community to help the subcommittee define the project. Individuals are requested to contact him with their suggestions.

Council Member Carr welcomed the high school seniors. He reminded the community to be careful in the morning and evening commute hours as traffic may be a little more congested. He recommended that individuals have a little more patience as everyone wants to make sure that the students are safe in the community.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Mayor Kennedy gave recognition to Congressman Richard Pombo and Congresswoman Zoe Lofgren for their assistance in helping to restore some of the funds cut from the Corp of Engineer's budget in order

to keep the flood control project moving forward. He stated that it is a continuous struggle to keep these funds in the budget and to keep this project moving forward.

Robert Kushner stated that he has an office building in Morgan Hill and that it was his belief that he is the first to install solar panels on the building. However, he was charged over \$5,000 in permit fees to install the panels on the roof. He said that other cities charge less for a similar system, even if three times larger (e.g., \$180 to \$1,000). He did not believe that individuals should be penalized for helping the environment and the energy crises. He requested a refund of the permit fees.

Council Member Grzan requested that this matter be brought before the Council.

No further comments were offered.

City Council Action

CONSENT CALENDAR:

Mayor Pro Tempore Tate requested that item 1, Mayor Kennedy requested that item 2, and Council Member Carr requested that item 6 be pulled from the Consent Calendar.

Action: *On a motion by Council Member Carr and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Approved** Consent Calendar Items 3-5 and 7-15 as follows:*

3. **SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF JORGENSON, SIEGEL, McCLURE & FLEGEL, LLP**

Action: ***Authorized** the City Manager to Execute a Second Amendment to Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP.*

4. **SUPPORT OF AB 1421 REGARDING PROVISION OF REPLACEMENT WATER**

Action: ***Supported** Legislation.*

5. **FINAL MAP APPROVAL FOR ROYAL COURT (TRACT 9629)**

Action: *1) **Approved** the Final Map, Subdivision Agreement and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City, and 3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement, Following the Recordation of the Development Improvement Agreement.*

7. **AWARD OF WATERWISE DEMONSTRATION GARDENS PROJECT**

Action: *1) **Appropriated** \$30,000 from the Current Year Un-Appropriated Water System Replacement Fund Balance (653) in the Project Account (#126005); 2) **Awarded** Contract to Suarez and Munoz Construction for the Construction of the Waterwise Demonstration Gardens Project in the Amount of \$137,234; and 3) **Authorized** Expenditure of Construction Contingency Funds not to exceed \$13,723.*

8. **APPROVE WATER METER SOLE SOURCE PURCHASE**

Action: 1) **Approved** Purchase of Water Meters, Meter Parts and MXUs (Radio Transmitters) From Invensys Metering Systems; and 2) **Approved** Purchase Order of \$299,300 to Invensys Metering Systems for the Annual Supply of Water Meters, Meter Parts and MXUs.

9. **VACATION OF A PORTION OF A PUBLIC SERVICE EASEMENT ON PARCEL A, PER MAP BOOK 771, PAGES 44-45 – Resolution No. 5942**

Action: 1) **Adopted** Resolution No. 5942, Declaring Summary Vacation of a Portion of a Public Service Easement on Parcel A, Per 771 M 44-45; and 2) **Directed** the City Clerk to File a Certified Copy of the Resolution in the Office of the Santa Clara County Recorder.

10. **AWARD PROFESSIONAL SERVICES CONTRACT TO PREPARE CONSTRUCTION DESIGN AND BIDDING DOCUMENTS FOR COMMUNITY PARK IMPROVEMENTS PHASE I**

Action: **Authorized** the City Manager to Execute a Consultant Agreement with Bellinger, Foster, Steinmetz Landscape Architecture in the Amount of \$114,600 for the Preparation of Construction Design and Bidding Documents for Phase I of the Community Park Improvements Project, Subject to Review and Approval of Interim City Attorney.

11. **APPROVAL OF PROGRAM SUPPLEMENT AGREEMENT NO. 006 FOR FEDERAL-AID PROJECT NO. 04-5152: DEPOT STREET RECONSTRUCTION PROJECT – Resolution No. 5943**

Action: 1) **Approved** the Program Supplemental Agreement with Caltrans for the Depot Street Reconstruction Project; and 2) **Adopted** Resolution No. 5943, Designating the City Manager as the City Official Authorized to Sign the Funding Agreement.

12. **REPORT ON DEPOT STREET RECONSTRUCTION NEIGHBORHOOD MEETING**

Action: **Information** Only.

13. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) 2005 QUATERLY REPORT #2**

Action: **Accepted** and **Filed** the RDCS Second Quarter Report for 2005.

14. **ADOPT ORDINANCE NO. 1735, NEW SERIES, AS AMENDED**

Action: **Waived** the Reading, and **Adopted** Ordinance No. 1735, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: ***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING ON SEVEN PARCELS FROM CENTRAL COMMERCIAL RESIDENTIAL CC-R, TO PLANNED UNIT DEVELOPMENT PUD, BRINGING THE PARCELS INTO CONFORMANCE WITH THE DOWNTOWN PLAN AND THE GENERAL PLAN (APNs 726-13-032, 033, 034, 041, 042, 043, 044).***

15. ADOPT ORDINANCE NO. 1736, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1736, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 1.01.010 G OF CHAPTER 1.01 (CODE ADOPTION) OF TITLE 1 (GENERAL PROVISIONS), AMENDING SECTION 15.12.020 (ADOPTION OF THE CALIFORNIA ELECTRICAL CODE) AND ADDING SECTION 15.12.040 (ADDING CALIFORNIA ELECTRICAL CODE ARTICLE 334.12 REGARDING NON-METALLIC-SHEATHED CABLES) TO THE MORGAN HILL MUNICIPAL CODE TO INCLUDE THE CURRENT EDITION OF THE CALIFORNIA ELECTRICAL CODE.**

1. PROCLAMATION DECLARING SEPTEMBER 14, 2005 AS NATIONAL ANTHEM PROJECT DAY IN MORGAN HILL

Mayor Pro Tempore Tate stated that he could not support the recommended action. He indicated that he supports music in schools. However, he did not believe the Council should be taking a position that could be interpreted as the Council telling the School District what to do. He did not believe it would be appropriate to require the National Anthem be played at every City event.

Mayor Kennedy indicated that a national organization is advocating the National Anthem project that encourages learning and playing the National Anthem at public events. He said that the language in this particular action is not mandatory, but is more of a suggestion. He felt that this was a good action to take, and that if approved, the Council is merely encouraging that the National Anthem be played at public events, and encouraging members of the public to learn the National Anthem so that it can be sung and represented properly when played.

Action: Mayor Kennedy made a motion, seconded by Council Member Carr, to: 1) Approve Proclamation Endorsing the National Anthem Project; and 2) Authorized the Mayor to Forward the National Anthem Project All-Star City Application to the Public Safety and Community Services Subcommittee.

Council Member Carr said that in hearing Mayor Kennedy's comments that this is not a strict proclamation, and that the City would not be performing the exact letter of what this organization is requesting, he would support the motion. He felt that there may be occasional City events where the Council can promote singing the National Anthem. By adopting this action and emphasizing the importance the Council believes there is in the study of music and in music education, it is his hope that the Council is also willing to support these efforts in schools. He noted that the Council has been trying to find ways to become more involved in public schools and to do some things on behalf of the youth. He felt that this may be something the Council can do. Perhaps this may be a way of providing more support to schools.

Council Member Sellers said that as a former member of the Emerald Regime Band, he has always been a supporter of music in schools. Therefore, he was supportive of this portion of the recommendation. He

recommended that the second bullet contained in the staff report be modified to delete the word “all” from “... at all official functions.” He concurred that it would not be appropriate to sing the National Anthem at all municipal functions.

Mayor Kennedy stated that he would concur with Council Member Sellers’ recommended modification.

Vote: *On a motion by Mayor Kennedy and seconded by Council Member Carr, the City Council amended the motion to delete the word “all” from the second bullet of the staff report. The Motion carried 4-1 with Mayor Pro Tempore Tate voting no.*

**2. ESTABLISH SISTER CITY RELATIONSHIP WITH HEADFORD, IRELAND –
 Resolution No. 5941**

Mayor Kennedy stated that in attendance this evening were John Foggiato, president of the Sister City Committee and Bernie Mulligan, chair of the Irish Sister City subcommittee, to address the request that the City becomes a Sister City with Headford, Ireland.

Mr. Foggiato indicated that he and Mr. Mulligan would be presenting an overview of where the City is in terms of the Sister City consideration with Headford, Ireland. A power point presentation was made, depicting the location of Headford, Ireland. He informed the Council that fishing and agriculture are the primary businesses in the area. High tech is coming into the area and that it is a popular angling center. The population in Headford, Ireland is approximately 2,500 individuals with another 2,500 individuals surrounding the City.

Mr. Mulligan indicated that he and Mayor Kennedy visited Headford, Ireland in April 2005 and that a meeting was held with Headford, Ireland Council members and the Twinning Committee. He stated that the area is growing rapidly as technology is being brought in. He felt the City could establish a relationship along these lines. He stated that Ireland is booming, the Euro dollar is doing well, and the economy in Headford is doing extremely well. He stated that Ireland has a 100% literacy rate. He indicated that the area is heavily inundated with agriculture and livestock. He informed the Council that Headford has unanimously approved Morgan Hill as their Sister City and requested that the Council accept Headford, Ireland as a Sister City.

Mayor Kennedy said that the Morgan Hill Sister City Committee has been working on a possible sister city with Japan. He said that the Committee had two cities in Japan that were being investigated. However, both cities dropped out due to a political situation. He indicated that the Committee will continue to keep a sister city relationship with a city in Japan open. He stated that the Committee tries to establish sister city relationships with cities who have common interests, roots and connections where there is a local support base in Morgan Hill that would keep relationships alive and nurtured. He noted that the City has sister city relationships with San Casiano, Italy and San Martin de Hidalgo, Mexico. He indicated that Mr. Fry is meeting with the former mayor of San Casiano and that the City’s sister city relationship has been helpful to Mr. Fry in a project that he is working on. He indicated that a Sister City delegation will be traveling to Puerto Vallarta to meet with San Martin de Hidalgo delegates. He felt that sister city relationships build bridges to communities across the world, and felt that this was another

welcomed addition to Morgan Hill's sister cities. He encouraged the Council to support the action.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Grzan, the City Council unanimously (5-0) **Adopted** Resolution No. 5941, Establishing a Formal Sister City Relationship with the City of Headford, Ireland.*

**6. CITY POSITION ON PROPOSED VALLEY TRANSPORTATION AUTHORITY (VTA)
LONG TERM TRANSIT CAPITAL INVESTMENT PROGRAM AND POTENTIAL
QUARTER-CENT SALES TAX INCREASE**

Council Member Carr stated that he agreed, in general, with the position the City is taking. He referred to the first page, second paragraph, last line of the recommended letter that states "We support a Bart extension into San Jose." He inquired whether it was the intent to be specific in supporting Bart coming into San Jose, or was it the intent of the comment to state that the City supports the Bart project coming into Santa Clara County. He recommended that the sentence be amended to state "... into Santa Clara County."

Mayor Kennedy noted that the description of the project states that Bart will be going into San Jose and Santa Clara. He concurred that the sentence was somewhat restrictive. He supported Council Member Carr's recommended modification.

Mayor Pro Tempore Tate stated his support of leaving the sentence vague and would support stating that the City supports a Bart extension into Santa Clara County. This amendment would not sound as though the City is approving a specific proposal.

Council Member Carr noted that the same paragraph talks about Morgan Hill agreeing with Mayor Ron Gonzales' two goals of expanding bus, light rail, para transit, and the construction/operation of as many Measure A projects as possible. Another goal is that the City supports the Bart extension into Santa Clara County. He inquired whether the two goals were: 1) expanding existing serves, and 2) the Bart extension.

Mayor Kennedy clarified that the two goals were: 1) expanding current bus, light rail, and para transit services, and 2) the construction/operation of as many of the Measure A projects as possible.

Council Member Carr stated that this was not how he reads Mayor Gonzales' goals. He felt that Mayor Gonzales' goals were expanding current services and bringing Bart into San Jose. He recommended that the paragraph be amended to clarify the City's position.

Mayor Kennedy felt that it was the intent of the paragraph to capture the first two goals contained in Mayor Gonzales' letter.

Council Member Carr felt that Mayor Gonzales' projects include Bart in Santa Clara County. He recommended that this paragraph be restated as he was unclear as to what was meant by the two goals.

Mayor Pro Tempore Tate recommended that the word “two” be eliminated from the last sentence.

Council Member Carr supported Mayor Pro Tempore Tate’s recommendation to delete the word “two” from the last sentence. He recommended that the paragraph be amended to clarify that Mayor Gonzales’ goals of expansion by “...including support of the Bart extension in Santa Clara County.” He referred to page 54 of the agenda packet. He was curious about the comments relating to the airport people mover (recommendation 7). He understood how this recommendation would connect with Caltrain and that it might be important to Caltrain riders. He inquired why this recommendation became important to mention in the letter.

Mayor Kennedy said that in Mayor Gonzales’ letter, he recommends deferring construction of the airport people mover, making it a lower priority. He stated that the Policy Advisory Committee felt that cities benefiting from the Caltrain stations were counting on the people mover as a way of getting to the airport. It is being stated that cities along the Caltrain right of way want to keep the airport people mover in the mix and not have the project deferred. In order to make this possible, it has been suggested that instead of making it a fixed rail people mover, that a more cost effective approach be considered to reduce the cost (e.g., bus route or transit).

Council Member Carr stated that an airport people mover is not as high of priority to him as is the double tracking and the reverse commute; specific items to Caltrain. In reading the response letter, he felt that it is stating that the airport people mover is the most important issue to the City; perhaps ranked above other Caltrain services. He said that in reading Mr. Guardino’s memorandum, in the polling conducted by the Silicon Valley Leadership Group and the coalition of others, the airport people mover did not rank as high as the Caltrain items. He said that Morgan Hill’s assembly district and the assembly district to the south of Morgan Hill ranked Caltrain improvements equal to the Bart extension. He did not want to short change the Caltrain items in favor of the airport people mover and that he wants to make sure that the City’s priorities stay with the Caltrain improvements.

Mayor Kennedy recommended that emphases be placed on reverse commute; giving it the same emphases in the letter as the first two items.

Mayor Pro Tempore Tate recommended that discussion of the airport people mover be discussed later in the letter.

Council Member felt that reverse commute is important and would be growing in importance. He recommended that the need for double tracking be emphasized. He supported addressing the reverse commute, but did not believe it was the most important Caltrain improvement. He felt that improvements to existing services and expansion of existing services should be addressed before talking about reverse commute as these are of greater importance.

Mayor Kennedy indicated that the reason the reverse commute is being given a higher emphasis is because the Valley Transit Authority (VTA) received the approval to add additional north/south trains. He said that there is an agreement with Union Pacific to add a fifth train. He indicated that the problem is that the rider ship has not been there. It was his perspective that the reverse commute is a long term

goal. He said that additional trains are already included in the plan, but that the reverse commute is not clearly identified in the near term plan nor scheduled to take place until 2016. He said that it was his intent to try and place more emphasis in moving up reverse commute with the realization that the additional trains traveling north and south are already in place.

Council Member Carr recommended that the letter state the City's support of securing funding for these items. He said that there may be right of way agreements with Union Pacific. If the City is not being vocal in supporting funding to bring the trains on line, he did not believe that anyone else would. He said that funding for additional trains will help the residents of Morgan Hill; whereas, the reverse commute would be beneficial to the business parks and not as beneficial to the residents of Morgan Hill. He felt that these two items were of importance to get across in the letter. He recommended that emphasis be made to providing funding for expansion of existing services in the letter.

Mayor Kennedy supported adding emphasis to securing funding.

Mayor Pro Tempore Tate agreed with Council Member Carr's points and that the letter could be modified to incorporate his direction.

Council Member Carr stated that he would trust the Council subcommittee in the drafting of the letter. He requested that the points be clarified.

Council Member Sellers felt that Council Member Carr raised excellent points. Given that there are a wide range of items the Council would like to take place, he felt that there are 2-3 items that are of paramount in terms of importance. He recommended that these items be emphasized. He recommended that Mayor Kennedy modify the letter and that the Council subcommittee confirm the modifications when it meets on Friday.

Council Member Carr noted that the letter suggests copying Gilroy Mayor Al Pinheiro. He inquired how involved Gilroy has been in these discussions and whether they were in line with these priorities.

Mayor Kennedy noted that the Cities of Morgan Hill, Gilroy and Milpitas have a representative attending committee meetings. He indicated that Mayor Pinheiro has attended one of two meetings and a staff person from Board of Supervisor Don Gage's office has attended the meetings as well. He said that both have been supportive of Morgan Hill's lead position. He said that a point is made to invite Gilroy and Board of Supervisor Don Gage to all meetings and to ensure that all are together on these issues.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Directed** The Regional Planning and Transportation Council Subcommittee to send a Letter to the VTA, Responding to Correspondence from San Jose Mayor Gonzales and the Silicon Valley Leadership Group and Clarifying the City's Position on the Long Term Transit Capital Plan and on the Quarter-Cent Sales Tax Proposal, incorporating and emphasizing the suggestion points into the letter by the Council subcommittee.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Carr and seconded by Mayor Pro Tempore/Vice-chair Tate, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 16 as follows:*

16. JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF AUGUST 24, 2005

Action: **Approved** the Minutes as written.

City Council Action (continued)

CONSENT CALENDAR:

Mayor Pro Tempore Tate and Council Member Sellers requested that item 17 be removed from the Consent Calendar.

17. AWARD CONTRACT FOR CONSTRUCTION OF PEDESTRIAN CROSSING IMPROVEMENTS AT MONTEREY ROAD AND CENTRAL AVENUE

Council Member Sellers announced that he has a conflict and would be recusing himself from this item. He excused himself from the Council Chambers.

Mayor Pro Tempore Tate stated that in reading the staff report, he understood that the City rebid this project and that companies are overbooked. Therefore, the City is forced into a position of having to pay additional monies to proceed with the project at this time. He inquired whether it would hurt to wait until construction companies are available in order to receive a more reasonable bid.

Director of Public Works Ashcraft informed the Council that the City's original engineer's estimate was at \$148,000. He said that in the best market of approximately four months ago, the City would have received a \$148,000 bid. He indicated that many of the companies who were busy with the original bid continue to be busy. He noted that this is specialty work with the City receiving two bids originally. The City now has one bid. He stated the low bidder reduced his price. He informed the Council that Granite Construction is a good construction firm. Based on a deadline for grant funding, staff recommends awarding the bid. He said the City could wait six months to see if lower bids come in. However, the City would be faced with losing the \$184,000 grant. He said that there is also a key safety improvement needed in front of a school and that staff would like to see this project completed as soon as possible.

Mayor Pro Tempore Tate noted that it would cost the City an additional \$23,000 than expected in terms of a matching grant.

Director of Public Works Ashcraft indicated that the City has applied for this grant five years in a row and that this is the first grant awarded to the City. He stated that this grant is very competitive in California, and that very few cities receive these grants. Even though it would cost the City more, staff recommends moving forward with the project.

Mayor Kennedy stated that he had a similar concern raised by Mayor Pro Tempore Tate. Although it is not the best deal, he felt the City needs to move forward with the project in order to take advantage of the grant; otherwise, the City would lose the grant.

Action: *On a motion by Council Member Carr and seconded by Council Member Grzan, the City Council, on a 4-0 vote with Council Member Sellers absent: 1) **Appropriated** \$70,000 from the Measure C Schools Pedestrian and Traffic Safety Fund into the Project Account Number 538005; 2) **Awarded** Contract to Granite Construction Company for the Construction of Pedestrian Crossing Improvements at Monterey Road and Central Avenue in the Amount of \$232,232; and 3) **Authorized** Expenditure of Construction Contingency Funds not to exceed \$23,223.*

Council Member Sellers resumed his seat on the Dais.

City Council Action

PUBLIC HEARINGS:

18. ZONING AMENDMENT, ZA-04-16/DEVELOPMENT AGREEMENT, DA-04-05: BARRETT-ODISHOO – Ordinance Nos. 1737 and 1738, New Series

Planning Manager Rowe presented the staff report on a request for approval of a precise development plan and development agreement for a 36-unit single family residential development located on the southerly side of Barrett Avenue and easterly of the Butterfield Boulevard alignment. He indicated that staff has provided the Council with a revised, corrected version of the development agreement ordinance that corrects two incorrect references to project file numbers.

Council Member Grzan recommended that the Council focus on what the developer has done with the project in terms of the adjoining Butterfield Boulevard in that an existing water feature incorporated recreational amenities. He noted that the project did not incorporate a sound wall. He stated that he likes the concept and the direction the project took and recommended that this project be used as a model as the City looks at other developments. He said that other projects along Butterfield Boulevard incorporated sound walls as opposed to this particular project that opens the area up. He recommended that the Council consider a policy that integrates natural features. Even though it is only a drainage ditch; it is a nice way of approaching development.

Mayor Kennedy opened the public hearing.

Robert Kushner indicated that his building is located next door to Napa Auto Parts. He said that as of January 1, 2005, his property was rezoned to retail. He noted that his business has been in Morgan Hill for almost 20 years. He purchased the building to relocate his company and that the building has existing businesses. The building includes a dentist and portrait studio; all office space uses. He would like to reduce the size of his office space and lease some of it to a beauty salon. He stated that this use is not allowed because the property has been rezoned to retail. He indicated that he has been told that he could apply for a variance and a temporary permit that would cost him over \$5,000 in application fees with no guarantee that he would be able to keep the tenant for more than a year. Therefore, the tenant will not move in and is looking to locate elsewhere. He informed the Council that the building was not designed for retail and that it was original built to be a hospital.

City Manager Tewes stated that he is aware of the situation and that that Mr. Kushner's request is not related to this particular agenda item. He recommended that the Council conclude the public hearing on this item and that it take Mr. Kushner's comments as additional public comments, not a part of the regular agenda. Further, that Planning Manager Rowe provides the Council with background information. He said that Mr. Kushner's comments relate to the consequences of extending the definition of downtown to the north of town and that Mr. Kushner's situation was impacted. He said that staff has some ideas on how to remedy the situation and that the Council may wish to agendize this discussion for a future meeting.

No further comments being offered, the public hearing was closed.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** the Mitigated Negative Declaration.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Grzan, the City Council unanimously (5-0) **Waived** the Reading in Full of the Ordinance No. 1737, New Series, the Zoning Amendment Ordinance.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1737, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 7.06 ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF BARRETT AVENUE AND SAN RAMON DRIVE (APN 817-33-003)**, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1738, New Series, the Development Agreement Ordinance.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council **Introduced** Ordinance No. 1738, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION, DA-04-05 FOR APPLICATIONS MP-02-22 AND MC-04-13: BARRETT-ODISHOO (APN 817-33-003), per the revised ordinance, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

PUBLIC COMMENT - continued

City Manager Tewes recommended that the Council consider Mr. Kushner's issues and concerns. The Council could receive a brief staff report on how the City proposes to address these concerns, including the timeline to address these issues.

Mayor Kennedy reopened the floor to comments for items not appearing on this evening's agenda.

Mr. Kushner said that if he is only allowed to have retail in his building, he would not be able to have any tenants in the building. He stated that his building is located outside the area the Planning Commission is trying to develop for the purpose of rezoning. He indicated that his property is located across Britton Middle School.

Planning Manager Rowe informed the Council that in January 2005, the Council adopted a series of amendments to the downtown zoning in accordance with the Downtown Plan. One action extended the central commercial-residential district from Main Avenue north to Central Avenue. This amendment includes a limitation on ground floor office and retail uses such that any of these types of uses would require a conditional use permit. He clarified that Mr. Kushner addressed concerns of having to pay for a full use permit and a temporary use permit fee. He informed the Council that this matter was brought to the attention of the Planning Commission under public comment. The Planning Commission directed staff to look at a lower fee that would reflect the fact that there is an existing, improved facility and the fact that a lower level of analysis would be in order. Therefore, the cost associated with such a permit would be accordingly lower. He informed the Council that staff will be taking this matter back to the Planning Commission on September 27, 2005 and the matter would be scheduled for Council consideration shortly thereafter for an amended fee for a downtown permit program for office-retail uses.

Mayor Kennedy recommended that Mr. Kushner attend the Planning Commission and the subsequent Council meeting, if necessary.

No further comments were offered.

City Council Action

OTHER BUSINESS:

19. REQUEST BY SENIOR ADVISORY COMMITTEE

Mayor Pro Tempore Tate indicated that the Senior Advisory Committee (SAC) is not making a request. He clarified that the Public Safety and Community Services Committee (Committee) is making a recommendation. He said that the request stemmed from the Committee's review of the 2005 work plans. He said that during the interview with SAC, there was some sensitivity to the fact that they have not received attention from the Parks & Recreation Commission (PRC). He said that Bill Keig, chairman of SAC, addressed this concern with the Committee. A couple of days later, he learned that Mr. Keig left the Committee because he did not believe SAC to be affective and were not doing anything because they could not have their issues advanced through the PRC. In subsequent conversations, he learned that a couple of other members of the SAC also resigned. He felt that the Council was losing good individuals because they did not believe they were affective. He felt that the City needs the SAC's support and input. He stated that the Council has overloaded the PRC and that they are concentrating on the assignments given by the Council. He did not believe the PRC has the time to focus on SAC issues. He indicated that Council Member Carr and he met, as the Committee, and agreed to make the recommendation before the Council. He indicated that the Committee spoke with the chairmen of the PRC and SAC to discuss the fact that they were thinking of making the recommendation before the Council. He informed the Council that both the PRC and SAC approved heading in the direction of having the SAC report directly to the Council.

Council Member Carr indicated that he spoke with the chairman of the PRC, liaison to the SAC, who supports the Committee's recommendation. He said that it was realized by the Committee, after hearing from Mr. Keig and learning more about the issues, that the work plan that SAC is interested in is not a work plan that the PRC is working on. This could be attributed to the fact that the Council has asked the PRC to work on many items related to ongoing projects. He said that the Committee has spent time thinking about how SAC would work with the PRC on the integration of senior activities in the indoor recreation center (IRC). He noted that the PRC is working on the IRC as well as the outdoor sports complex. He felt that more thought needs to be given to this. He recommended that the Council ask the chairs of the SAC and PRC to work with the Council to make sure that senior activities are integrated. He said that it was clear that SAC feels there are items on the work plan that are important to them and that they were not at a place to get their issues addressed.

Council Member Sellers appreciated the fact that the Committee raised this issue, in particular with the timing of the IRC. He felt that SAC would be providing the Council with policy advice and advocacy. He said that Santa Clara County is talking about taking actions that would not be in the best interest of the City of Morgan Hill in terms of its senior population. He felt that it was important to have an organized group of individuals who can advocate on behalf of the City. He noted that the staff report indicates a desire for the Council to lessen the burden on staff for subcommittees and these committees. He stated that he supports the recommended change provided that it does not increase staff's workload. He said that upon further review of the staff report, he felt that it might actually reduce staff work load. He inquired whether the Committee took a look at what it might entail as far as staff work and requested confirmation that it will not increase staff's workload.

Mayor Pro Tempore Tate did not believe that the recommendation that SAC report directly to the Council would decrease or increase staff's workload (would remain static).

City Manager Tewes noted that the staff report includes a report he prepared earlier in the year that indicates that this committee and the other two advisory committees to the PRC sought a direct reporting relationship with the Council. He noted that his report did not recommend the direct reporting relationship. He said that to the extent the PRC is not integrating the needs of the various interests, it would be appropriate for the Council to direct the PRC to do so versus having the Council become the integrative function. He felt the Council is best served when the various interests of the community are represented by a body where they can be identified and compared; determining whether there are compromises. He stated that this was the basis for his recommendation. Regarding the issue of staffing, he said that it is his intuition that when a commission seeks a direct reporting relationship, it would require more Council and staff time. However, he could not qualify the time.

Mayor Kennedy opened the floor to public comment.

Susan Fent, co-chair of SAC, stated that it was her belief that there is a natural evolution taking place in SAC and in the City of Morgan Hill. She indicated that the population of seniors in the city is growing and that with this; the needs of the seniors are growing as well. She said that Morgan Hill is looking at a senior population of 60+ years; a diverse senior population that reaches a large span of issues and needs. She felt that originally, SAC was put into place to give support to the senior center and the activities taking place. The IRC came about and SAC was able to give some advice on planning areas. She said that SAC would like to see transportation, healthcare, mental health and other needs addressed. She felt that it would be inappropriate for SAC to go to the PRC as most of the issues were legislative in nature. She informed the Council that there were some very income supportive service issues that were affecting the seniors in the community at the State level. In order for SAC to take a stand and voice an opinion, they have to receive Council approval to do so. She did not believe that it was the place of the PRC to be able to do this for SAC. Also, some of their activities were stymied where there were some things that SAC wanted to work on quickly, but did not have the opportunity to do so as there were too many individuals they had to reach and loopholes they had to go through. She requested Council support of SAC directly reporting to it.

No further comments were offered.

Mayor Pro Tempore Tate agreed that it would take more time to have SAC report directly to the Council. He stated that he would be willing to be the SAC's liaison, if one is needed. He did not believe that it would take more staff time to have this direct reporting situation.

Council Member Grzan inquired whether there was something that can be done to make the PRC more responsive.

City Manager Tewes said that the PRC has a certain set of responsibilities per the Municipal Code. He stated that there are three advisory committees that have scopes of responsibilities established (e.g., Youth Advisory Committee, Senior Advisory Committee and Bicycle & Trails Committee). He said that

the members appointed by the Council to SAC want to break out of the box created. As important as bus transportation and in home support services are for seniors, it is not in the scope of responsibilities as now drawn. He did not believe that these two subjects lend themselves to being reviewed by the PRC. It was his belief that this is where the tension has risen. He felt that it was the lack of clarity and expectations of the Council committees that are being played out in this plea for direct reporting to the Council. He said that he did not pursue a complete reorganization of all of the Council's advisory roles in the report he prepared. He said that it is always the case when you appoint good citizens to committees; they want to find work to do and take on more responsibilities. Therefore, SAC has expanded their scope of work.

Council Member Grzan inquired how the direct reporting would affect the Council.

Council Member Carr noted that SAC has an existing work plan that the Council would expect they accomplish.

Mayor Kennedy noted that the City had a SAC reporting directly to the Council before the City had to make cut backs on its commissions and committees in the early 1990s.

Council Member Sellers felt that there were several reasons that it made sense to have direct reporting from SAC to the Council. He stated that he would not support having the direct reporting by the Bicycle & Trails Committee or the Youth Advisory Committee because he felt that these two committees are within the scope of the PRC and do not have timely issues. He noted that SAC have timely issues that do not fall within the scope of the PRC. He felt that it continues to be appropriate to have a PRC member who will focus on senior issues, particularly if they pertain to IRC issues so that they are kept informed as a Commission. He recommended that the Council look at defining what the relationship is between the Council and SAC so that there is clarity. The Council could forward items to SAC and that there may be items that can be placed on the consent calendar for Council consideration. There may be other items that may warrant additional scrutiny. He stated his support of the concept of having SAC report directly to the Council as the scope of work for them in the next few years will increase. He felt the Council could review the reporting issue at that time.

Mayor Kennedy agreed that the senior population and their needs are growing. He felt that it would be appropriate to have SAC report directly to the Council based on the report presented. He stated that he welcomes a more active SAC and that by making this relationship; it will continue to foster a more active SAC.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Directed** staff to prepare changes to the Municipal Code, as appropriate.*

20. IMPROVING THE EFFECTIVENESS OF CITY COUNCIL MEETINGS

Mayor Kennedy indicated that he met with the Interim City Attorney prior to the Council meeting. He said that the Interim City Attorney expressed concerns about two aspects of what is being proposed. It

is not known whether the new City Attorney would feel that the Rosenberg's Rules of Order would make sense. He informed the Council that Interim City Attorney Siegel expressed concern that from time to time he needs to have communication with the City Manager and that the proposed seating arrangement could create a problem. He recommended that the Council discuss these two issues. He did not believe that there was an urgency to move forward with any or all of his recommended changes to improve the effectiveness of Council meetings. He suggested that the Council move forward with those items it agrees upon and bring back the items that there is not an agreement with at a later date.

Mayor Pro Tempore Tate referred to item 3; indicating that there is some confusion with subsection b that states that work study sessions will be determined by the mayor and city manager. Later, it is stated that council members or staff may identify a need for a work study session or work session. He recommended that this be clarified to state that the mayor, council members, city manager, and/or staff can suggest a work study session. He felt that these two statements appeared to be contradictory. He referred to item 7 and stated that he did not believe the Council should adopt having town hall meetings. It was his belief the Council would be willing to hold town hall meetings, but that it was not approving mandated town hall meetings be held. He referred to item 8b, noting that it is being recommended that the Council no longer ask recipients of proclamations or certificates to address the Council unless a specific presentation is deemed appropriate. He felt that the reward of receiving recognition is the ability to make a comment/statement.

Council Member Sellers felt there are times that recognitions take longer than they need to. He did not believe that some items warrant as much recognition as is being provided. He recommended that the Council be cognizant of this fact, but not eliminate recognitions.

Council Member Carr felt the Council should take a look at the items that are being recognized so that it does not reduce the significance of the recognition. He recommended that the items recognized from the podium and special presentations be of significance. If there are instances where no one will be in attendance to receive recognition, the item is to be placed on the consent calendar. He agreed that part of asking someone to attend a Council meeting and be recognized is an opportunity to meet the individuals and allow them to say a few words. He was not sure whether sharing of ceremonial duties would aid efficiency. He felt that there were a few items that are granted to a directly elected Mayor and that he does not have a problem having the presentation of proclamations and/or certificates being the official duties of the mayor and in his/her absence, the mayor pro tempore or other council members, when necessary. Therefore, he was not sure whether any of the items listed under section 8 are of great importance.

Mayor Kennedy suggested that the language be modified as follows: "Ceremonies may be shared by the mayor" leaving this up to the mayor's discretion.

Council Member Sellers recommended that proclamations be considered as part of the consent calendar unless a specific presentation is requested or someone is in attendance to receive the proclamation or certificate of recognition. He indicated that he likes the current seating arrangement. He felt that as laid out, it is easy to see each other. He felt that it would be better to have the city manager and the city

attorney seated adjacent to each other. However, if and when the City gets a new city attorney, it would be appropriate to ask the city attorney his/her thoughts on this matter and consider them at that time.

Mayor Kennedy indicated that three council members receive his attention and that Council Member Carr gets his attention by pushing the speaker button.

Council Member Grzan said that consideration could be given to having the city attorney and city manager sit at the table in front of the Dais as an option.

Mayor Kennedy concurred with deferring taking action on item 2, seating arrangements.

Mayor Pro Tempore Tate felt that Mayor Kennedy brought the recommended changes because of his comfort in running meetings with these rules. He stated his support of Mayor Kennedy's recommendation to adopt Rosenberg's Rules of Order.

Mayor Kennedy said that the Council could adopt Rosenberg's Rules of Order and that should problems arise, the Council could change its rules. He felt that the Rosenberg's Rules of Order are more streamlined and efficient.

Council Member Sellers noted that the only substantive change in Rosenberg's Rules of Order is that a motion is to be made prior to discussion as opposed to having the discussion followed by a motion. As long as the Council is cognizant of this fact, he felt that the Rules made sense.

Council Member Grzan recommended that the Council give further consideration to the recommended changes; bringing this item back at the upcoming Council's half day retreat.

Mayor Kennedy noted that there were not many issues before the Council and expressed concern that bringing this item back at the Council retreat might divert the Council's attention from other matters scheduled for the retreat. However, he felt that Council discussion could proceed rather quickly.

Council Member Carr said that a couple of areas are more important as far as efficiencies are concerned. He referred to items 6 and 9. He noted that the Council does not always ask the applicant to address the Council first. He recommended that the Council be formalized in how it conducts the public presentations and give thought to the idea that the applicant is given extra time to address their project. He recommended that the Council spend more time discussing items 6 and 9 at the Council retreat as it was his belief that there were some efficiencies in these areas that can be made.

Interim City Attorney Siegel referred to page 231 of the report, the memo written most recently in October 2002. He noted that under section 7.2, Rules of Order, it is stated that Sturgis Rules of Order are to be used. He indicated that the Sturgis Rules of Order do not require seconds to motions. However, the Council requires seconds to motions at this time. He said that the Rosenberg Rules of Order do not require seconds to motions. He stated that the Council may or may not want to keep its policy consistent. Should the Council wish to adopt the Rosenberg's Rules of Order, as attached to the agenda packet, it

may want to adopt seconds to motions. The Council could decide to make a motion without a second and move forward with the motion.

Mayor Pro Tempore Tate recommended that seconds be required to motions.

Mayor Kennedy supported the requirement of seconds to motions as it is the Council's practice to do so. Therefore, it would be an amendment to the Rosenberg's Rules of Order.

Mayor Kennedy opened the floor public comment. No comments were offered.

Action: *It was the consensus of the City Council to further discuss this item at the Council's September 30, 2005 workshop.*

21. BOARD, COMMISSION, AND COMMITTEE MEMBERS' COMMENTS ON THE CITY COUNCIL ETHICS POLICY

Council Services and Records Manager Torrez presented the staff report, informing the City Council that on April 20, 2005, it adopted a value-based approach Ethics Policy. Staff was directed to forward the Ethics Policy to board, committee and commission members for their review and comments. She informed the Council that the board, committee and commission members were in support of the Ethics Policy with the Planning Commission and Library Commission each offering a modification to the Ethics Policy: ***Public Officials to encourage a diversity of opinions to be expressed during public debate and discussion (Planning Commission)***; and a recommendation that ***violations of the Ethics Policy warrant removal from office (Library Commission)***. Should the Council concur with the recommended additions, she recommended that the Council amend the Ethics Policy to incorporate these two items. She informed the Council that the next step in the process is to have staff schedule a training session on the Ethics Policy with board, commission and committee members and that staff would work on coordinating the training session. She inquired whether it would be the City Attorney's office or the Council's Ethics Subcommittee who would be conducting the ethics training session.

Council Member Carr inquired whether the Library Commission's recommendation was for elected officials and questioned whether there was legal authority to remove an elected official from office.

City Manager Tewes felt that the Library Commission was referring to the Council's role in its appointment and removal of commissioners. He noted that only the voters can remove elected officials from office.

Mayor Pro Tempore Tate said that the Ethics Committee established a core value of respect and that under respect, there was an expression of the value that states "that I work to gain value from diverse opinions and build consensus." He stated that the Ethics Committee used a positive behavior to illustrate this. It is further stated that it is "Actively seeking out different view points and common threads." He did not understand why the Planning Commission was recommending the inclusion of a statement that states the same thing. He did not know if all commissioners received the matrix that identified the core values. He felt the Ethics Committee did an adequate job addressing this issue.

Council Member Sellers noted that core values are identified in section 3b and addresses diversity. Regarding the Library Commission's recommendation, he felt this issue is already addressed as it is a legal issue and is included in the ethics policy.

Mayor Kennedy recommended that when the meeting with commissioners is scheduled, that it be pointed out that the Council already addressed the diversity issue.

Action: *Council Member Sellers made a motion to stipulate that the comments have been incorporated and direct staff to schedule an ethics policy workshop.*

City Manager Tewes said that the City's municipal code states that "members shall be appointed by a majority of the city council and may be removed without cause by a vote of any three members of the city council." He said that the suggestion by the Library Commission is that the Council identifies, in the ethics policy, a statement that violations of the ethics policy may lead to removal from the appointed position. He clarified that the Council already has the authority to remove individuals from boards and commission.

Council Member Sellers recommended that the wording be modified to word it more closely to the City Manager's suggestion so that it is made clear.

Mayor Kennedy felt that the Library Commission's recommendation of removal from office and referral of the matter to the district attorney is ambiguous and assumes that both actions are to be taken.

Council Member Sellers recommended that the statement be modified to state that "If there are violations warranting criminal charges, the Council may proceed with removal from office and may refer the matters to the City Attorney's office."

Council Member Grzan inquired whether this section applies to any citizen appointed by the Council to a committee or commission and not appointed to office (e.g., general plan committee, urban limit line, etc.).

Mayor Kennedy concurred that this section needs to be clarified.

Council Members Carr and Sellers felt this section applies to any Council appointments and removal from their position, not office.

Council Member Grzan recommended Council members conduct the training session as it is a method for the Council to reinforce ethical policies if it goes out and teaches it.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0): 1) **Discussed** the List of Comments Received from*

*Commission, Committee and Board Members Regarding the Council's Ethics Policy; 2) **Agreed** to incorporate comments into the Ethics Policy, as amended; 3) **Directed** Staff to Schedule a Board, Commission, and Committee Ethics Policy Workshop; and Council **to Conduct** the ethics policy training session.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

22. REVIEW CITY COUNCIL AND REDEVELOPMENT AGENCY'S SEPTEMBER, NOVEMBER, DECEMBER AND JANUARY MEETING SCHEDULE

Council Services & Records Manager Torrez presented the staff report, requesting that the Council/Agency Board review the upcoming meeting schedule. She informed the Council that there are two items scheduled for the Council/RDA meeting of September 28 and inquired whether the Council would like to hold this meeting or cancel the meeting. She said that should the Council decide to cancel the September 28 meeting, the Council subcommittees could use this time to meet. She noted that the Council is also scheduled to meet on Friday, September 30 in a half day workshop. She informed the Council that typically, the Council cancels the Wednesday meeting prior to the Thanksgiving Day holiday. The City will be furloughing non-emergency staff personnel December 27 through December 30, 2005. The City will be observing Monday, January 2 as a holiday. City Hall offices will reopen for business on Tuesday, January 3, 2006. She requested Council direction regarding its September, November, December and January meeting schedule.

Action: *By consensus, the City Council/Redevelopment Agency Board **agreed** to the following meeting schedule for the months of September, November and December 2005 and January 2006 as follows: September 21 - regular meeting, September 28 - meeting canceled, September 30 - Special Meeting (workshop 2-6 p.m.); November 2 - regular meeting, November 16 - regular meeting, November 23 - meeting canceled, November 30 - special meeting, if needed; December 7 - regular meeting, December 14 - Special meeting, December 21 - meeting canceled, unless needed, December 28 - meeting canceled; January 4 – meeting canceled, January 11 - Special meeting, January 18 - regular meeting, and January 25 - regular meeting.*

Council Member Sellers noted that December 8, 2005 is the Cities Association holiday party and that the party will be held at San Jose City Hall, Rotunda. He felt that this would be a great opportunity to meet Council colleagues from other cities and encouraged all Council members to attend this event.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 9:27 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY